



City Manager's Office
City of Frisco, Texas

Memorandum

To: Honorable Mayor Maso and Members of the Frisco City Council

Cc: George A. Purefoy, City Manager
Henry Hill, Deputy City Manager
Nell Lange, Assistant City Manager
Ron Patterson, Assistant City Manager

From: Amy Gill, Assistant to the City Manager

Date: 02/06/2009

Agenda Caption: Consider and act upon approval of a resolution endorsing certain legislative changes to enhance the competitive electric market supported by Cities Aggregation Power Project, Inc. (CMO/AG)

Action Requested: Endorsement of CAPP's legislative agenda focusing on increasing competition in the electric market.

The City of Frisco is a member of Cities Aggregation Power Project, Inc. ("CAPP"). The CAPP Board of Directors has voted to authorize certain legislative efforts on behalf of its members during the 81st Texas Legislative Session. CAPP will capitalize on the presence its members established in the last three legislative sessions to apprise legislators of CAPP Cities' perspective on electric issues and to recommend legislative action.

Discussion: In 1999, Texas lawmakers adopted Senate Bill 7, the state's electric deregulation law. The legislation expanded competition in the wholesale electricity market and opened the door to competition among electric retailers. Proponents of the legislation promised lower electric prices.

Unfortunately, the reality has been otherwise. Although Texans paid electric prices well below the national average during the decade before Senate Bill 7 was passed, customers in deregulated parts of the state now pay prices above the national average. In fact, residential electric prices have increased by a greater

percentage in Texas than in almost every other state – including every other deregulated state with retail competition.

CAPP believes that many of the current problems that keep the market from achieving the promise of full competition stem from defects in the deregulated electricity market. For example, some generators are able to exercise monopoly-like control in large swaths of Texas. That has hindered healthy competition. Efforts to address market design issues by ERCOT have been misguided, mismanaged, gone over budget and fallen behind schedule.

As an active market participant, CAPP is in the unique position to identify problems that have developed in the deregulated marketplace and provide a consumer's perspective to legislators interested in fixing those problems.

Based upon this point of view, CAPP has created a legislative agenda that aims to transition the electric market from a deregulated market to a truly competitive one by limiting market power, eliminating cost shifting, and creating competitive options for all customers. The CAPP legislative agenda items reflect CAPP's desire for a truly healthy electric market where consumers can save and competition can flourish. Such a market - one where power remains affordable and reliable - will mean more economic development for Texas' cities, and a better standard of living for our citizens.

Legislative change is necessary to better protect cities' budgets, enhance cities' ability to protect their citizens, and increase competition among retail providers. The following changes are proposed by the CAPP Board:

- All generators, regardless of size, should explicitly be barred from the unlawful exercise of market power. Current regulations exempt smaller generators from market power prohibitions.
- Entities harmed by wholesale market abuse such as municipalities, commercial customers or retail electric providers should be given explicit standing to participate in enforcement actions brought by the Public Utility Commission ("PUC"). Affected parties are currently barred from participating in such proceedings.
- Ownership and control of generation capacity should be limited to no more than twenty percent (20%) of total generation capacity within the functional market (ERCOT zone) in order to enhance competition and mitigate market power and the ability of any one generator to affect prices. In the alternative, the PUC should be directed to create a single ERCOT-wide market with uniform congestion pricing.

- Permit cities to create and implement opt-out citizen aggregation programs, or alternatively to become Retail Electric Providers or Municipally Owned Utilities.
- Direct the Electric Reliability Council of Texas (“ERCOT”), the organization that administers the state power grid, to abandon all efforts to transition to a nodal market and direct the PUC to open a proceeding to consider other market design options.

The CAPP Board, made up exclusively of City representatives, requests that the City Council pass the attached resolution endorsing CAPP’s legislative agenda.

Board Review/Citizen Input: N/A

Alternatives: Deny the resolution.

Financial Considerations: N/A

Legal Review: The resolution was drafted by the CAPP attorneys.

Supporting Documents:

- Resolution

Staff Recommendation: Approval.